

Congress of the United States
Washington, DC 20515

June 24, 2008

James W. Balsiger, PhD.
Acting Assistant Administrator of Fisheries
NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910

H. Dale Hall
Director
U.S. Fish and Wildlife Service
1849 C Street NW
Washington, DC 20240

Dear Dr. Balsiger and Director Hall:

We are writing to you as members of Congress who represent the greater part of the Bay-Delta region of California, and who are deeply invested in the long-term sustainability of the Bay-Delta, a healthy watershed, and our region's fisheries.

It has been almost sixteen years since the enactment of the Central Valley Project Improvement Act (CVPIA) of 1992, which mandated the doubling of California's Central Valley anadromous fish populations, including salmon and steelhead. It is now six years past the date by which this mandate was to have been achieved. However, as you know, during this period of time, we have seen the collapse of the very fisheries Congress directed you to restore, recover, and protect.

We are gravely concerned not only by the precipitous declines in salmon populations, but also with the related declines in estuarine species, which clearly indicate continuing problems with the overall ecological health of the Sacramento-San Joaquin Delta – the most valuable estuary ecosystem on the west coast of North or South America. Moreover, as you are aware, these fishery declines bring with them massive economic costs. Over the last 25 years, California's salmon fishing industry has suffered an almost 85% decline according to permit and license data. This year, for the first time, the entire commercial and recreational salmon fishery has been closed, at great cost to the economy and to the communities and families that depend on this resource.

It is against this backdrop that we write to express our concerns about your engagement in the ongoing Bay-Delta Conservation Plan (BDCP) process. We understand that this is a Natural Communities Conservation Planning (NCCP) effort under California law, with a parallel to the Habitat Conservation Planning (HCP) process under the federal Endangered Species Act, and that the ultimate purpose of this process is the issuance of fifty-year take permits for the state and federal water projects.

Because endangered species statutes appear to be the only things standing between California's fisheries and extinction, we view the BDCP process with some trepidation. The BDCP would provide assurances that neither of your agencies will require any additional resource commitments. It therefore gives us pause that NOAA Fisheries is only "tracking" the BDCP, as we were told in a recent Natural Resources Committee hearing, and we are concerned that the BDCP may offer regulatory guarantees for listed

species for which no recovery plan exists. A process that has the beneficial outcome of producing an effective Delta restoration plan — which guarantees increases in water for the environment, sufficient funding for restoration, enforceable performance, and increased predictability for water managers — would be extremely welcome. It is troubling to us, however, that this Bay-Delta planning process seems to be driven by those with an interest in exports, rather than by those who depend on a healthy watershed and sustainable fisheries.

And while we appreciate that it is essential that the federal agencies charged with ensuring the long-term health of California's fisheries participate in this process, we must evaluate the situation in light of the failure of the CALFED program and of your agencies' recent track record on fisheries protection. We ask that you provide our offices with clear information about how this effort will be fundamentally different from your prior efforts, and how this BDCP will result in meaningful and lasting restoration of the resources that have been so sorely neglected to date.

In particular, please provide us with specific responses to each of the following:

1. Describe the changes your agencies are making to ensure that the same problems that have undermined fisheries restoration in the past will not be repeated, specifically how your agencies will ensure that sufficient water is made available for protected fisheries to ensure their long-term recovery and sustainability.
2. Describe what your agencies are doing to ensure that the BDCP process adopts the quantitative goals and performance measures for the long-term biological health of fisheries set forth in the CVPIA, specifically the mandate to double anadromous fisheries throughout the Central Valley.
3. Describe how your agencies will ensure credible, independent scientific peer-review of the ecosystem restoration goals and measures that your agencies develop in this process, to guarantee that the best available science is fully reflected in any final plan.
4. Describe the specific accountability mechanisms that will be invoked if the promised restoration measures fail to be implemented, or if implemented, fail to achieve the expected results.
5. Describe your agencies' involvement in the development of the BDCP, its scope, and its objectives, and how you intend to evaluate the range of alternatives available to the BDCP in light of recent court rulings.
6. Describe how the BDCP would compare, in scope and in consequence, to other HCPs and NCCPs that have been approved by your agencies. We are concerned

that there do not seem to be any clear precedents for granting such long-term regulatory guarantees to users of a dynamic aquatic system like the Bay-Delta.

7. Describe how your agencies are undertaking to coordinate the goals of the BDCP and other planning efforts such as the Delta Vision.

In addition, we believe it to be of the highest imperative that a credible body of disinterested scientists determines the amount and timing of freshwater flows needed to support fisheries. This is not a task that can or should be left to the potentially regulated entities – some of the largest users of water in California – particularly given the record of Bay-Delta restoration and protection efforts to date.

The Governor's recent drought emergency announcement further increases the stakes in the BDCP and other Delta planning processes. We strongly caution against a rush to suspend or otherwise weaken environmental protections for the estuary. As the planning process for the BDCP appears to be moving forward at a rapid clip, we would appreciate a reply to our questions by August 1 of this year.

Thank you for your consideration of our request.

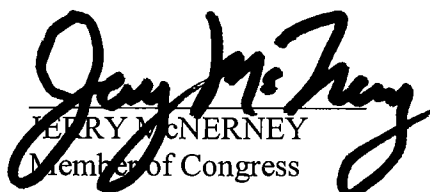
Sincerely,


GEORGE MILLER
Member of Congress


ELLEN O. TAUSCHER
Member of Congress


MIKE THOMPSON
Member of Congress


DORIS O. MATSUI
Member of Congress


JERRY MCNERNEY
Member of Congress

CC: Jim Lecky, Director, Office of Protected Resources
Rodney R. McInnis, Regional Administrator, Southwest Regional Office
Steve Thompson, Regional Director, U.S. Fish and Wildlife Service